



**CITY COUNCIL**  
CITY AND COUNTY OF HONOLULU  
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September 20, 2021

The Honorable Mike Formby, Managing Director  
530 S. King Street, Rm. 306  
Honolulu, HI 96813

**SUBJECT: Information Requested Regarding Nomi Health Partnership**

Aloha Managing Director Formby,

I want to first and foremost thank the City Administration for its efforts in addressing Resolution 21-187, which requested the urgent reopening of COVID-19 testing sites and expanding available testing locations. With that in mind however, I am requesting additional information regarding the addition of a new City testing partner, Nomi Health, due to a number of concerns that have been brought up regarding the company's history with administering COVID-19 testing in other states.

**Background on Nomi Health**

As you are aware, Nomi Health was founded in 2019 and was involved in COVID-19 testing sites in Iowa, Utah, Nebraska and Tennessee throughout 2020. Many of these agreements were executed under no-bid contracts, totaling \$80 million in no bid contracts in Utah, Nebraska, Iowa and Tennessee<sup>1</sup>. Throughout 2020, Nomi Health also was the subject of scrutiny due to its questionable practices and administration of tests, including:

- A Utah State Auditor report found that while the contract with Nomi Health anticipated up to 3,000 tests per day, which is approximately \$44 per test, the actual cost per test ended up exceeding \$235 per test<sup>2</sup>.
- A group of Nebraska state lawmakers raised concerns regarding Nomi Health, including its failure to deliver test results within 48 hours, its data collection practices and Nomi Health's leadership demonstrating financial ties and support for hydroxychloroquine<sup>3</sup>.
- In Tennessee, the state was forced to cancel a \$6 million contract with Nomi Health due to issues with the execution of the contract. According to media reports, "Nomi shipped cattle breeding gloves to the state instead of medical gloves, in addition to the wrong kind of wipes and knock-off N-95 masks, some with holes in them."<sup>4</sup>

<sup>1</sup> <https://www.politico.com/states/florida/story/2021/08/05/desantis-donor-got-50m-in-emergency-pandemic-work-1389523>

<sup>2</sup> <https://reporting.auditor.utah.gov/servlet/servlet.FileDownload?file=0151K0000041R3qQAE>

<sup>3</sup> <https://kutv.com/news/coronavirus/nebraska-lawmakers-want-to-terminate-27-million-contract-with-test-utah-companies>

<sup>4</sup> <https://patch.com/tennessee/across-tn/tn-lawmaker-renews-questions-failed-covid-testing-contract?fbclid=IwAR0umorEtiwXN9L8MBGqa9RerIWQNwJH4r6hi5q94Vbn0Bjb08jvz8DrYeQ>

The no-bid contracts executed with Nomi Health have also been the subject of data collection concerns. In an article entitled, *"Silicon Slopes companies ink big dollar contracts for coronavirus testing in Utah, Iowa. Nebraska is next,"* by the Salt Lake Tribune, a University of Utah Professor highlighted potential data concerns:

"Jorge Contreras, a University of Utah professor who specializes in intellectual property law, reviewed the Utah and Iowa contracts at the request of The Salt Lake Tribune. He noted that while the contracts say the states own the data, they don't prevent Nomi from providing aggregated or unidentifiable data to insurance providers, pharmaceutical companies and other corporations that use such information to set rates or develop marketing.

"That data could ultimately be far more valuable than the money the state is paying to implement these programs," Contreras wrote in an email. "If I were the state, I might have insisted that Nomi use and disclose this collected data only as expressly permitted by the state, that the state share in any revenue that Nomi makes from exploiting this data and, most importantly, that all such forms of data exploitation are publicly disclosed."

In addition to the issues with Nomi Health regarding the administration of the contracts in the states above, there are also serious concerns with Nomi Health's partner, Co-Diagnostics, Inc., a Utah-based company that provides the COVID-19 tests for Nomi Health's operations. Co-Diagnostics is the subject of U.S. Securities and Exchange Commission (SEC) and federal lawsuits alleging "manipulative and deceptive practices."<sup>5</sup> Among potential concerns identified were the accuracy of the tests provided by Co-Diagnostics. It appears that these tests by Co-Diagnostics may be utilized in the contract between the City and County of Honolulu and Nomi Health, as a September 10, 2021 press release by Nomi Health notes:

"Nomi's COVID response platform is also used effectively in Iowa, Nebraska, Florida, Hawaii, Texas, Alabama and Colorado. **The company uses U.S. Food & Drug Administration-authorized tests from Co-Diagnostics, Inc.,** and maintains the highest standards with ISO 270001, FedRAMP, HITRUST and HIPAA-compliant technology, and testing site materials. At the peak of COVID, Nomi was responsible for performing more than 50,000 tests a day throughout the nation."<sup>6</sup>

The concerns with test accuracy and more information about how the tests were validated have prompted lawsuits in other states. In Utah for example, Nomi Health is currently fighting a lawsuit that seeks information pertaining to how the tests provided by Co-Diagnostics, Inc. were validated<sup>7</sup>.

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<sup>5</sup> <https://www.fox13now.com/news/local-news/sec-investigated-utah-company-over-covid-19-test-claims>

<sup>6</sup> <https://www.businesswire.com/news/home/20210910005454/en/Nomi-Health-Actively-Hiring-More-Than-200-Staff-for-TestUtah-Mobile-Testing-Initiative-via-Expanded-Partnership-With-the-State>

<sup>7</sup> [https://journalstar.com/news/state-and-regional/govt-and-politics/utah-attorney-sues-nebraska-state-epidemiologist-in-public-records-fight-over-covid-19-testing/article\\_6be2bb1c-a819-5ae9-be3b-e14d3cb73947.html](https://journalstar.com/news/state-and-regional/govt-and-politics/utah-attorney-sues-nebraska-state-epidemiologist-in-public-records-fight-over-covid-19-testing/article_6be2bb1c-a819-5ae9-be3b-e14d3cb73947.html)

**Information Requested for Nomi Health Contract**

Given the past issues identified in other states that have executed no-bid contracts with Nomi Health, and reports that the Administration plans to further expand the use of Nomi Health to other testing locations, I am requesting the following information:

1. Was the City Administration aware of the issues that other jurisdictions have encountered with Nomi Health?
2. If the City Administration was not aware of these issues, what vetting or research was conducted to ensure that due-diligence was met before contracting with Nomi Health?
3. If the City Administration was aware of these issues, what prompted the Administration to ultimately decide to execute a partnership with Nomi Health?
4. Was the contract with Nomi Health executed as a no-bid contract?
5. If it was executed as a no-bid contract, why was Nomi Health selected?
6. What other providers were considered in re-opening or expanding the City's COVID-19 testing sites?
7. Who specifically suggested that Nomi Health be utilized?
8. What COVID-19 tests (manufacturer and type) are being utilized by Nomi Health in the scope of its contract with the City and County of Honolulu?
9. In the scope of the contract and/or discussion around the testing sites, what is the reported accuracy of the tests provided?
10. Is/are there provisions in the scope of the contract(s) that prevent Nomi from providing aggregated or unidentifiable data to insurance providers, pharmaceutical companies and other corporations that use such information to set rates or develop marketing?
11. What is the total cost of the contract(s) executed with Nomi Health?
12. What is the cost per test amount being paid by the City to Nomi Health and how does that compare with the cost per test amounts under other/previous agreements between the City and providers?

I am also respectfully requesting a copy of the contract(s) executed between the City and County of Honolulu and Nomi Health. Please provide this information no later than the close of business on October 4, 2021.

As we have discussed, I believe that the Council should work with the Administration to address any questions that arise from expenditures that may have been paid by either CARES or ARPA funding. I look forward to receiving more information in a timely manner.

Sincerely,



Councilmember Tommy Waters

District 4 (Hawai'i Kai, Kuli'ou'ou, Niu Valley, 'Āina Haina, Wailupe, Wai'ala-e-Iki, Kalani Valley, Kāhala, Wilhelmina Rise, Kaimukī, portions of Kapahulu, Diamond Head, Black Point, Waikīkī, and Ala Moana Beach Park)